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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,212	01/13/2005	Max Segerljung	821-69	2742
7590		10/04/2007		
Dilworth & Barrese				
333 Earle Ovington Boulevard				
Uniondale, NY 11553				
			EXAMINER	
			LOPEZ, FRANK D	
			ART UNIT	PAPER NUMBER
			3745	
			MAIL DATE	DELIVERY MODE
			10/04/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,212	<b>Applicant(s)</b> SEGERLJUNG, MAX	
	<b>Examiner</b> F. Daniel Lopez	<b>Art Unit</b> 3745	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 1-21 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

Applicant's arguments filed July 2, 2007, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 1-25 have been considered but are deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the added limitations that there is at most a single valve in first and second passages connecting a single pump to first and second ports of an hydraulic drive means.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Double Patenting***

Applicant is advised that should claims 22 and 23 be found allowable, claims 24 and 25 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 112***

Claims 6-11 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 does not appear to further limit claim 1, since the limitation is found in claim 1 last 3 lines.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

***Claim Rejections - 35 USC § 103***

Claims 1-, 3, 5, 7-9, 11, 18 and 19 are rejected under 35 U.S.C. § 103 as being unpatentable over Corke et al in view of Gellatly. Corke et al discloses a hydraulic system comprising a hydraulic drive means including a cylinder (17) having chambers on opposite sides of a piston, connected, by first and second passages (46; 47, respectively), respectively, to first and second ports of first (41) and (42) second pumps, driven by an electric motor (44); wherein a single valve (48, 49, respectively) is in each of the first and second passages, without an intervening conduit between the valve and the cylinder; wherein the pumps pump fluid in one direction through the single valve to move a load, and receive energy from the load causing fluid to flow in an opposite direction through the pumps, to transfer energy to the motor (e.g. column 4 line 32-36); first, second and third conduits connected to a tank (50) and the passages, with a one-way valve (57) in the first conduit, a second valve (52) in the second conduit and a third valve (58) in the third conduit; but does not disclose that the system has a single pump; or that there is at least one rechargeable battery to store the regenerated energy.

The limitation "A single valve...in one of the first and second passages" (claim 1 line 17) is met by the above reference, since there is no limitation concerning the other passage.

Gellatly teaches, for a hydraulic system comprising a hydraulic drive means including a cylinder (11, column 3 line 33-34) having chambers on opposite sides of a piston, connected, by first and second passages (28, 33), respectively, to first and second ports (16, 17) of a pump, driven by an electric motor (13); the equivalence of the pump being a single pump (e.g. 91, fig 3) and being 2 pumps (e.g. 178, 177, fig 5).

Since Gellatly teaches the equivalence of one and two pumps for a cylinder; it would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the two pumps of Corke et al with one pump, as taught by Gellatly, since one having ordinary skill in the art would have been able to carry out such a substitution and the results would be reasonably predictable.

Corke et al does not say where the regenerated energy is stored, but one having ordinary skill in the art would understand that the electrical energy could be stored in a battery. Therefore, the system of Corke et al would inherently store the regenerated energy in a battery. If not, it would have been obvious at the time the invention was made to store the regenerated energy of Corke et al in a battery, since a battery can be combined with the system of Corke et al, using known method to yield predictable results.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571- 272-4821. The examiner can normally be reached on Monday-Thursday from 6:10 AM -3:40 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez  
Primary Examiner  
Art Unit 3745  
September 27, 2007